

USCIS	SEARCHED
DOCUM	INDEXED
ELECTR	SERIALIZED
DOC #	FILED
DATE:	

1/25/2019

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

COMMERZBANK AG,

Plaintiff,

-against-

U.S. BANK NATIONAL ASSOCIATION and  
BANK OF AMERICA, N.A.,

Defendants.

Case No. 1:16-cv-04569-WHP

**GERHARD KEBBEL ORDER REGARDING REQUEST FOR  
INTERNATIONAL JUDICIAL ASSISTANCE TO OBTAIN EVIDENCE TO BE USED  
IN A CIVIL PROCEEDING PURSUANT TO THE HAGUE CONVENTION**

Defendant U.S. Bank National Association, by and through their undersigned attorneys, having duly moved for an order, pursuant to 28 U.S.C. § 1781 and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, 23 U.S.T. 2555, T.I.A.S. No. 7444, granting the issuance of the letter of request, attached to the Declaration of Samuel L. Walling as Exhibit M ("Kebbel Letter of Request"), directed to the appropriate central authority having jurisdiction of civil causes in Germany, to compel the oral deposition by stenographic and videographic means of Gerhard Kebbel, upon the grounds that Mr. Kebbel possesses information relevant and material to the issues in this case and is located within Germany and, thus, cannot be compelled to be examined in the U.S. District Court for the Southern District of New York.

Upon the motion having been heard and upon reading the submissions of the parties with respect thereto, and upon the pleadings and prior proceedings in this action;

IT IS ORDERED that Defendant's Motion Pursuant to the Hague Convention for the Issuance of a Letter of Request for International Judicial Assistance to Obtain Evidence from the Witness for Use in a Civil Proceeding pursuant to 28 U.S.C. § 1781 and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters is GRANTED;

IT IS FURTHER ORDERED that the Kebbel Letter of Request be issued in the above-captioned action directed to the appropriate judicial authority, attention to Der Präsident das Oberlandesgerichts Frankfurt am Main Zeil 42, Postfach 10 01 01, D-60313 Frankfurt am Main (the "Central Authority"), requesting in the furtherance of justice, by the proper and usual process of their court, to cause Mr. Kebbel to appear before the Central Authority, or some competent person designated thereby, at a precise time to be fixed by the Central Authority or as agreed to by the parties, to allow the deposition of Mr. Kebbel upon oral examination recorded by stenographic and videographic means according to the procedures set forth in the Kebbel Letter of Request, and to cause that deposition transcript and videotaped recording to be returned to Michael T. Marcucci, as identified in the Kebbel Letter of Request; and

IT IS FURTHER ORDERED that the Clerk of this court is instructed to affix the seal of the Court to the Kebbel Letter of Request, and return the fully executed Kebbel Letter of Request to Andrew S. Kleinfeld at the following address in order to be served upon the competent Central Authority in Germany:

Andrew S. Kleinfeld  
JONES DAY  
250 Vesey Street  
New York, New York 10281

**SO ORDERED:**

Dated: New York, New York  
January 25, 2019

  
Hon. William H. Pauley III  
United States District/Magistrate Judge